

July 29, 2022

By ECF

The Honorable Sarah Netburn
United States Magistrate Judge for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Commerzbank AG v. Wells Fargo Bank, N.A.*, 15-cv-10033-KPF-SN (S.D.N.Y.)
Subject: Joint Letter in Response to July 13, 2022 Order

Dear Judge Netburn:

The parties in the above-referenced action submit this joint letter pursuant to Your Honor's July 13, 2022 Order [ECF No. 615]. The parties have met and conferred following the Court's July 12, 2022 Opinion and Order [ECF No. 614] (the "Order") and have determined that there are no remaining claims in this action as a result of the rulings in the Order.

Specifically, as a result of the Order's rulings on the sale of RMBS certificates (Order at 26-37), negating clauses in the Pooling and Servicing Agreements (Order at 37-41), and the German statute of limitations (Order at 62-67), all of Commerzbank's breach of contract claims were dismissed and all of Commerzbank's tort claims were dismissed with the exceptions of tort claims on three certificates: ABFC 2006-OPT1 M2; ABFC 2006-OPT2 M2; and OOMLT 2006-2 M2.¹ However, Commerzbank has determined the net effect of the Order (*e.g.*, the Court's rulings on Minnesota trust instruction proceedings (Order at 42-51)) is that there are no tort damages claims remaining for these three certificates. Accordingly, the parties concluded that there are no other motions that the Court needs to decide, and judgment should be entered in Wells Fargo's favor as a result of the Order.

The parties reserve all rights with respect to the Order, including the right to appeal from the Order and any forthcoming judgment, and do not waive any defenses, including the right to contest liability or damages in the event any portion of the Court's ruling is reversed or vacated in connection with any such appeal.

The parties are available should the Court have any questions.

Respectfully submitted,

/s/ Ryan A. Kane
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/s/ Howard F. Sidman
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¹ The Order also did not dismiss claims on four loans in ABFC 2006-OPT2 (Order at 39, n.21), but the parties have concluded that the Court's rulings in Wells Fargo's favor apply equally to those four loans.